

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2260 - SB 2193

February 22, 2020

SUMMARY OF BILL: Adds a sentencing enhancing factor for the offense or reckless endangerment if the victim of the offense was a law enforcement officer, firefighter, correctional officer, youth services officer, probation and parole officer, a state registered security officer/guard, an employee of the Department of Correction or the Department of Children's Services, a uniformed member of the Armed Forces or the National Guard, an emergency medical or rescue worker, or emergency medical technician or paramedic in the performance of an official duty if the defendant knew or should have known that the victim was such an officer or employee.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$591,900 Incarceration*

Decrease Local Expenditures – \$18,200/FY20-21 and Subsequent Years

Assumptions:

Reckless Endangerment

- Pursuant to Tenn. Code Ann. § 39-13-103(b)(1), reckless endangerment is a Class A misdemeanor offense.
- Based on information provided by the Administrative Office of the Courts, there has been an average of 187.5 Class A misdemeanor convictions for reckless endangerment each year over the past 10 years. This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level. As a result, it is estimated that there are a total of 1,875 convictions (187.5 / 10%) per year for misdemeanor violations of Tenn. Code Ann. § 39-13-103(b)(1).
- This analysis estimates that the proposed legislation will result in 1 percent, or 19 (1,875 x 1%), of reckless endangerment convictions being enhanced to Class E felony Department of Correction (DOC) admissions.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.81 percent per year for each of the past 10 years (from 2008 to 2018), yielding a projected compound population growth rate of 8.37 percent. Assuming Tennessee's population continues growing by the same rates over the next 10-year period, population growth will account for two (19 x 8.37%) additional admissions for a total of 21 (19 + 2).

- According to the DOC, 30.4 percent of offenders will re-offend within one year of their release. A recidivism discount of 30.4 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by the proposed legislation. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under the proposed legislation (21 offenders x 30.4% = 6 offenders).
- According to the DOC, the average operating cost per offender per day for calendar year 2020 is \$75.52.
- The average time served for a Class E felony offense is 1.35 years.
- Pursuant to Tenn. Code Ann. § 9-4-210, 15 (21 – 6 recidivism discount) offenders will be admitted every year serving 493.09 days (1.35 x 365.25). The annualized increase in state incarceration expenditures is estimated to be \$558,572 (\$75.52 x 493.09 x 15).
- This analysis assumes individuals convicted of a Class A misdemeanor for reckless endangerment are spending an average of 15 days in local jail.
- The average cost to local governments to house an inmate in a local jail facility is \$64 per day.
- Adding the enhancing factor for reckless endangerment will result in a recurring decrease in local incarceration expenditures in FY20-21 and subsequent fiscal years estimated to be \$18,240 (19 admissions x 15 days x \$64).

Reckless Endangerment- Deadly Weapon

- Pursuant to Tenn. Code Ann. § 39-13-103(b)(2), reckless endangerment committed with a deadly weapon is a Class E felony offense.
- Based on information provided by the DOC, there has been an average of 124.4 admissions each year over the past 10 years for reckless endangerment committed with a deadly weapon.
- This analysis estimates that the proposed legislation will result in 1 percent, or 1 (124.4 x 1%), of convictions being enhanced to a Class D felony DOC admission.
- Population growth and recidivism will not impact these admissions.
- According to the DOC, the average operating cost per offender per day for calendar year 2020 is \$75.52.
- The average time served for a Class E felony is 1.35 years. The average time served for a Class D felony is 2.26 years. The legislation will result in each admission serving an additional .91 years (2.26 – 1.35).
- Pursuant to Tenn. Code Ann. § 9-4-210, one offender will be admitted every year serving an additional 332.38 days (.91 x 365.25). The annualized increase in state incarceration expenditures is estimated to be \$25,101 (\$75.52 x 332.38 x 1).

Reckless Endangerment- Discharge of a Firearm into an Occupied Habitation

- Pursuant to Tenn. Code Ann. § 39-13-103(b)(3), reckless endangerment by discharging a firearm or antique firearm into an occupied habitation is a Class C felony offense.
- Based on information provided by the DOC, there has been an average of 3.4 admissions each year over the past 10 years for reckless endangerment by discharging a firearm or antique firearm into an occupied habitation.

- This analysis estimates that the proposed legislation will result in 1 conviction being enhanced to a Class B felony DOC admission every 10 years.
- Population growth and recidivism will not impact these admissions.
- According to the DOC, the average operating cost per offender per day for calendar year 2020 is \$75.52.
- The average time served for a Class B felony is 6.48 years. The average time served for a Class C felony is 3.50 years. The draft legislation will result in each admission serving an additional 2.98 years (6.48 – 3.50).
- Pursuant to Tenn. Code Ann. § 9-4-210, one offender will be admitted every 10 years serving an additional 1,088.45 days (2.98 x 365.25). The annualized increase in state incarceration expenditures is estimated to be \$8,220 (\$75.52 x 1,088.45 / 10).

Total Impact to State Incarceration and Courts

- The proposed legislation will result in a recurring increase in state incarceration expenditures estimated to be \$591,893 (\$558,572 + \$25,101 + \$8,220).
- The courts, public defenders, and district attorneys will accommodate any impact with existing resources. Any impact to the court system is estimated to be not significant.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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